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HOUSE BILL 390

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JUDY VANDERSTAR RUSSELL

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; CHANGING PROVISIONS
REGARDING PURCHASE OF SERVICE CREDIT FOR TIME SERVED IN THE
MILITARY OR PUBLIC HEALTH SERVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-11-34 NMSA 1978 (being Laws 1967,
Chapter 16, Section 157, as amended) is amended to read:

"22-11-34. ALLOWED SERVICE CREDIT. --

A. A member shall be certified to have acquired
allowed service credit for those periods of time when he was:

(1) employed prior to the effective date of
the Educational Retirement Act in [any] a federal educational
program within New Mexico, including United States Indian
schools and civilian conservation corps camps. This service
credit shall be allowed without contribution;

Underscored material = new
[bracketed material] = delete

1 (2) engaged in military service that
2 interrupted his employment in New Mexico if he returned to his
3 employment within eighteen months following honorable
4 discharge. This service credit shall be allowed without
5 contribution;

6 (3) engaged in United States military service
7 or the commissioned corps of the public health service from
8 which he was honorably discharged if he contributes to the
9 fund a sum equal to ~~[ten and one-half percent of his average~~
10 ~~annual salary for that period of time for which he has~~
11 ~~acquired earned service credit under the Educational~~
12 ~~Retirement Act for each year of service credit he desires to~~
13 ~~purchase. Average annual salary shall be determined in~~
14 ~~accordance with rules promulgated by the board but shall~~
15 ~~always be based upon actual salaries earned by the member~~
16 ~~where the actual salaries can be ascertained]~~ the actuarial
17 value of the service purchased as defined by the board. The
18 employer's contributions for service credit shall not be paid
19 by the employer ~~[The purchase of service credit provided in~~
20 ~~this section shall be carried out by the member within three~~
21 ~~years after the date of the member's employment following~~
22 ~~service]; or~~

23 (4) employed:
24 (a) in ~~[any]~~ a public school or public
25 institution of higher learning in another state, territory or

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1 possession of the United States;

2 (b) in ~~any~~ a United States military
3 dependents' school operated by a branch of the armed forces of
4 the United States;

5 (c) as provided in Paragraph (1) of
6 this subsection after the effective date of the Educational
7 Retirement Act; or

8 (d) in ~~any~~ a private school or
9 institution of higher learning in New Mexico whose education
10 program is accredited or approved by the ~~state~~ board at the
11 time of employment.

12 B. The member or employer under Paragraph (4) of
13 Subsection A of this section shall contribute to the fund for
14 each year of allowed service credit desired an amount equal to
15 twelve percent of the member's annual salary at the time
16 payment is made if the member is employed or twelve percent
17 times the member's annual salary during the member's last year
18 of employment if the member is not employed at the time of
19 payment. Contributions paid for the member who is not
20 employed shall bear interest at the average rate earned by the
21 fund during the five-fiscal-year period immediately preceding
22 the date of payment. Such interest shall run from the date
23 the member last terminated employment to the date of payment.
24 Effective July 1, 2001, the member or employer under Paragraph
25 (4) of Subsection A of this section shall contribute to the

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1 fund for each year of allowed service credit desired an amount
2 equal to the actuarial value of the service purchased as
3 defined by the board. Payment pursuant to Paragraph (4) of
4 Subsection A of this section may be made in installments, at
5 the discretion of the board, over a period [of] not to exceed
6 one year and, if the sum paid does not equal the amount
7 required for any full year of allowed service credit, the
8 member shall acquire allowed service credit for that period of
9 time [which] that is proportionate to the payment made. Half
10 credit may be allowed without contribution for not more than
11 ten years of the educational service described by Subparagraph
12 (a) of Paragraph (4) of Subsection A of this section if that
13 service was prior to June 13, 1953 and if the member was
14 employed in New Mexico prior to June 13, 1953 in [any] a
15 position covered by the Educational Retirement Act or [any] a
16 law repealed thereby.

17 C. No member shall be certified to have acquired
18 allowed service credit:

19 (1) under any single paragraph or the
20 combination of only Paragraphs (1) and (4) or only Paragraphs
21 (2) and (3) of Subsection A of this section in excess of five
22 years; or

23 (2) in excess of ten years for any other
24 combination of Paragraphs (1) through (4) of Subsection A of
25 this section.

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D. The provisions of this section are made applicable to the services described prior to as well as after the effective date of the Educational Retirement Act. "